

REMARKS/ARGUMENTS

The claims are amended to replace "or a substituent" in all claims to the substituents specified in the specification (pages 32-36): an alkyl group, a cycloalkyl group, an alkenyl group, an alkynyl group, an aryl group, an aromatic heterocyclic group, a heterocyclic group, an alkoxy group, a cyclo alkoxy group, aryloxy group, alkylthio group, cycloalkylthio group, an arylthio group, an alkoxycarbonyl group, an aryloxy carbonyl group, a sulfamoyl group, an acyl group, an acyloxy group, an amido group, a carbamoyl group, an ureido group, a sulfinyl group, an alkylsulfonyl group, an aryl sulfonyl group, an amino group, a halogen atom, a fluoride hydro fluoro carbon group, a cyano group, a nitro group, a hydroxyl group, a mercapto group or a silyl group.

In view of the following it is submitted that claim 1 and claims dependent thereon are allowable. Rejoinder of withdrawn claims and allowance of the application are respectfully requested.

There is a provisional double patenting rejection over application No. 10/946,499 (Ueda et al. published as US

2005/0069729). To avoid this provisional double patenting rejection a Terminal Disclaimer is being filed concurrently herewith. Withdrawal of the double patenting rejection is therefore respectfully requested.

The claims are rejected as obvious over a combination of Adachi et al in view of Ueda et al (JP 2001-160488) with evidence supplied by Wieczorek et al. A similar rejection applied D'Andrade et al in place of Adachi et al, in the same combination. Finally, the claims are rejected over D'Andrade et al in view of Ueda et al, this time with evidence supplied by Thelakkat et al.

In the response to these rejections in the earlier Office Action, applicants argued that the present invention provides unexpected results as compared with the combination of art. These arguments were rejected by the Examiner, in essence, because of insufficient evidence of unexpected results. The Examiner also referred to the broad term "substituent" which encompasses any potential substituent and not supported by the examples tested. Therefore the Examiner maintains the rejection as a *prima facie* obvious selection from the art.

In response to the Examiner's position the term "substituent" has been limited in the claims to the

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substituents disclosed generically in the specification, as noted above. Concerning the issue of insufficient evidence to show unexpected results, in addition to limiting the "substituent" applicants provide herewith additional comparison testing in a Declaration by Eisaku Katoh, one of the co-inventors hereof. A copy of the Declaration is enclosed.

Referring to the Table on page 2 of the enclosed Declaration, the storage stability percent for each example shown in the Table is not only the examples from the specification, but additional examples as well, showing that the present invention is much better than the prior art in storage stability.

It is requested that the earlier argument be reconsidered in view of the additional testing provided herewith and that a favorable action be issued.

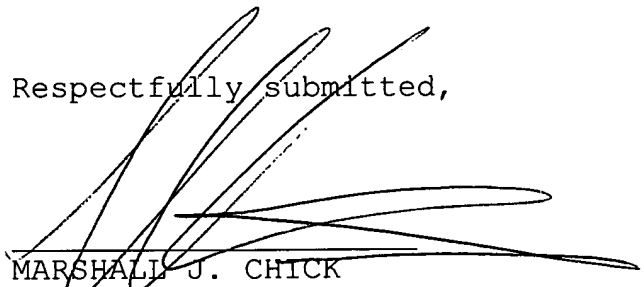
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Encs: Terminal Disclaimer

Form PTO-2038 - \$130

Declaration Under 37 CFR 1.132

Respectfully submitted,



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